No. 12,516

IN THE

United States Court of Appeals

For the Ninth Circuit

FOON GOON MOK,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

BRIEF FOR APPELLEE.

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JURISDICTION.

Appellant filed his petition for naturalization under the provisions of Section 324(A) of the Nationality Act of 1940 (8 U.S.C.A. 724(A)) in the United States District Court for the Northern District of California, Southern Division, on February 28, 1949 (T. 2-6). His petition was denied by District Judge Louis E. Goodman on December 13, 1949, upon the ground that he had failed to establish his good moral character for the required period of time (T. 13-14). Appellant filed his notice of appeal with the Clerk of the District Court on January 11, 1950 (T. 14-15).

Jurisdiction of the District Court to entertain the petition for naturalization is conferred by Section

301 of the Nationality Act of 1940 (8 U.S.C.A. 701). Jurisdiction of the Court of Appeals to review the District Court's final order is conferred by Section 128 of the Judicial Code, as amended (28 U.S.C.A. 1291).

The order of the District Court in denying the petition for naturalization is a final decision within the meaning of Section 128 of the Judicial Code (see *Tutun v. U. S.*, 270 U.S. 568, 46 S. Ct. 425, 70 L. Ed. 738).

STATEMENT OF THE CASE.

The appellant was born in China on July 18, 1912 (T. 2-21). He entered the United States illegally at New York, N. Y., in May of 1930 on a vessel the name of which is not known (T. 3-21). His petition for naturalization was not supported by a certificate showing the date, place, and manner of his entry to the United States because Section 324(A) of the Nationality Act of 1940 excepted him from such requirement. (See Appendix.)

Appellant was inducted into active service in the United States Army on October 21, 1942, and served therein to September 26, 1945, when he received a certificate of honorable discharge (T. 3-21). At the time of his induction he claimed to have been born in the United States (T. 21).

On July 12, 1946, he made a formal application for a United States passport in which he declared under

oath that he had been born in San Francisco, California, on July 18, 1912, and was a citizen of the United States (U.S. Exhibit No. 1; T. 21).

In the same year of 1946 appellant again falsely claimed United States citizenship by appearing as a supporting witness to a petition for naturalization, which petition was granted (T. 21). Also, in the same year of 1946 he made another false affidavit of citizenship in support of the same person's application for a United States passport (T. 12-22).

In August of 1948, by means of the United States passport which he had secured in 1946, he attempted to reenter the United States as an American citizen and again testified that he had been born in the United States. Five days later he admitted that he had been born in China (T. 22-23).

Appellant's petition for naturalization recites that he was then married to one Lun Fung How, the date of marriage being October of 1928 (T. 2). He twice falsely claimed that he was not married, first to the Army authorities and then to the officers of the Immigration and Naturalization Service (T. 22). In August of 1948, at which time he finally admitted the truth as to his place of birth and his citizenship, he also admitted the fact of his marriage, stating that he had married his wife for the second time at the American Consulate in China in 1947 (T. 22). His petition recites that he has two children: Mok Yee Lok, born January, 1929 in China, and Mok Kwong Yee, born January 15, 1948 in China (T. 3).

On October 20, 1948, the Immigration and Naturalization Service ordered that execution of the order excluding the appellant from the United States be deferred pending disposition of his application for naturalization (T. 17).

CONTENTIONS OF APPELLANT.

The appellant contends that the District Court erred in finding that appellant had not established good moral character as required by Section 324(A) of the Nationality Act of 1940; and also erred in denying appellant's petition for naturalization (Appellant's Brief p. 4).

Appellant raises two main questions: First, whether appellant did fail to establish good moral character before the District Court, and, Second, what period of time was the District Court authorized to consider in determining whether the appellant had established good moral character under Section 324(A) (Appellant's Brief p. 5).

The appellant's brief sets out his several acts from October of 1942 to August of 1948, during which period of time he claimed birth in the United States and American citizenship, and falsified concerning his marital status (Appellant's Brief pp. 5-6).

In addition his brief (pp. 6-7) asserts: First, that his false representation of United States citizenship at the time he appeared as a witness to another alien's petition for naturalization in 1946, and when he sup-

ported the same person's application for a United States passport in the same year, did no harm to anyone; Second, that no person was harmed by his false statements regarding his marital status; and Third, that these offenses are not of a type which would "outrage the moral feelings of his neighbors" (Appellant's Brief pp. 6-7).

In addition, the appellant points out that he, unlike some others who also falsely claimed United States citizenship, did not procure fraudulent documents to support his false claim, nor perjured statements; also, that he has never been prosecuted for these or any other offenses (Appellant's Brief pp. 7-8).

With further reference to his false statements concerning the fact of his wife and child in China, appellant asserts that this resulted in a saving to the Government since the truth probably would have caused an allotment to be made to them (Appellant's Brief p. 6).

The reason for remarrying his wife in China in 1947 is ascribed to the asserted difficulty encountered by his people in China in proving Chinese marriages. He mentions a "custom" recently growing up among the Chinese of remarrying their spouses at American Consulates in China in order to create records of such marriages (Appellant's Brief pp. 6-7).

ARGUMENT.

Since the appellant undertakes to show that his various offenses did not justify the denial of his petition for naturalization and, if they did, questions the period of time during which the District Court could properly require a showing of good character, the appellee will touch upon each act, *seriatim,* and then discuss the main issue raised by the appellant.

1. That no person was harmed by the appellant's false claim to native birth and United States citizenship when he acted as a witness upon his friend's petition for naturalization in 1946.

Section 346(a) of the Nationality Act of 1940 (54 Stat. 1163; 8 U.S.C. 746), then in effect, designated a false statement knowingly made under oath in any proceeding relating to naturalization or citizenship as a felony (see Appendix).

It is apparent that the appellant's action on that occasion was felonious. It is equally apparent that his false testimony included all of the elements of perjury.

By his false claim in support of his friend's passport application in the same year, he again brought himself within the purview of Section 346(a) (18) of the 1940 Nationality Act. In *United States v. Tandaric,* C.C.A. Ind. 1945, 152 F. (2d) 3, rehearing denied 66 S. Ct. 703, 327 U.S. 786, 90 L. Ed. 1012, it was held that under subsection (a)(18) of this section, making it a felony for an alien knowingly to represent himself to be a citizen of the United States, no limitation is placed on the circumstances under which and

the persons to whom false representation is made, as long as it is for a fraudulent purpose.

Perjurious statements are *malum in se*. No argument is needed to show their inherent harm to every citizen as they hamper the administration of justice in the judicial process. Appellant seems unaware that he directly harmed his friend by prejudicing his claim to citizenship and rendering his naturalization certificate subject to revocation.

2. What harm the appellant may have done directly to his wife and child, or to others indirectly, by concealing their existence has not been ascertained. Appellant points to the saving to the Government which resulted by his false statements in that regard. It is clear that this concealment resulted in depriving them of that to which they were rightfully entitled. He asserts that the lack of records in China, coupled with the attitude of the Immigration and Naturalization Service, has created a recent custom among the Chinese of remarrying their wives at the American Consulate there or in Hong Kong. No evidence of such a custom is in the record or elsewhere, and appellee submits that such evidence cannot be produced. A general lack of record evidence of such events as marriage in these Chinese cases has always necessitated acceptance of the testimony of the parties themselves as the only available evidence thereof, and such testimony has in the past, and presently still is, required to be accepted in both immigration and naturalization cases to establish both the fact and the validity of such marriages.

Appellant's real motive for concealing his family status is quite clear. He knew that any disclosure of his 1928 marriage in China would certainly lead to exposure of his false claim to birth in San Francisco in 1912, and it is apparent that his remarriage in China in 1947 was to mask his previous marriage there. Indeed, the appellant frankly sets out his deception in this respect, stating:

> "Obviously appellant would have been precluded in participating in this marriage and having it solemnized before the American Consul had he disclosed the previous marital status." (Appellant's Brief p. 7.)

Just as obviously such a disclosure would have led to the exposure of his fraud and the revocation of his American passport, as well as preventing his reentry to the United States; all of which he well knew and carefully guarded against.

3. Appellant thinks his course of conduct over a period of years from 1942 to 1948, during which time he steadfastly continued his practice of falsity and deceit, was not the kind of conduct that would outrage the moral feelings of his neighbors (Appellant's Brief p. 7).

No evidence whatever has been offered to support appellant's assumption as to the moral feelings of his neighbors. It is submitted that our many statutes condemning and penalizing such acts are sufficient proof of the contrary.

Finally, appellant sees some difference between his false claims and the acts of those who have secured

false documents to support them. He seems unaware that his American passport constituted documentary evidence of his claimed citizenship. Since the passport was sufficient for his purpose, he had no reason to secure additional evidence of citizenship; that he has not been penalized for his crimes in no way mitigates their character.

The case of *Petition of R.....* (56 F. Supp. 969), cited by the appellant, involved a female petitioner for naturalization who committed the technical crime of fornication by having sexual intercourse with a man with whom she went through a marriage ceremony in good faith, sincerely but mistakenly believing the man was divorced. The quoted phrase from the court's decision, when read with its context, discloses the court's natural disinclination to ascribe bad moral character to an innocent act which was a technical violation of law. Referring, however, to the quoted excerpt, it is submitted that the appellant's continued conduct fails to meet this test, since neither the norms of society nor the actions of average men condone persistent perjury.

In the case of *U. S. v. Samuel Harrison,* No. 12,354, cited by appellant, the petition was filed under a preceding veteran naturalization statute similar to Section 324(A). In that case the petitioner was guilty of family desertion, bigamy and false testimony. Reference to the decision in the case discloses that the test suggested by the appellee there was accepted and applied by this court, which said, however, that:

> "This test is not an irrational one and since it does no violence to the spirit of the law we see no reason for rejecting it. We apply it to the facts of this case and hold that the moral feelings now prevalent generally in this country would be outraged by the immoral and criminal conduct of appellee. Should this court express a contrary conclusion it would be a sad reflection on the mores of our times and a deplorable comment on moral standards existing in the United States. We adhere to the view that the moral climate of America does not encourage crime and criminals."

Appellant contends that he "accepted the burdens of citizenship". It is true that he claimed and enjoyed its benefits but, except for his military service, the record is silent concerning any burden or duty or responsibility which he ever acknowledged or performed. Certainly, his military service was commendable; it constitutes the sole basis for his petition for naturalization. As to whether an alien's honorable military record alone entitles him to citizenship, this court in the *Harrison* case, cited above, stated:

> "Appellee argues that an honorable discharge from the army is prima facie evidence of good moral character. Assuming the validity of this contention it requires no argument to demonstrate that such a fact cannot be so conclusive in its evidentiary effect as to outweigh, override and destroy the effect of other evidence which clearly establishes a course of conduct characterized by criminal activities of a serious character. The latter showing may completely negative the idea that

> the author of the criminal act is a person of good moral character, and we think that such is the effect of the evidence respecting appellee's conduct. Any other conclusion would imply that citizenship should be granted as a matter of course to all aliens who served in our armed forces regardless of the presence or absence of good moral character. This is not the law."

The appellant voices his apprehension that because of his illegal presence in the United States, an order of exclusion will be enforced against him unless such order may be defeated by his naturalization. The appellee realizes that this Court is not unmindful of ultimate results in this or other cases coming before it, but respectfully submits that it should not be persuaded to go beyond the question raised by the appellant of error in the trial court, since any result which may flow from his conduct—whether it be criminal prosecution or deportation—cannot properly be made an issue in this proceeding. It is clear that his present position was brought about solely by his own criminal conduct. His indirect plea that American citizenship should be awarded to prevent deportation is not tenable. In any event, such deportation would serve the wholesome purpose of reuniting him with his own family in his own country. In view of his illegal entry and subsequent conduct, such result does not appear too harsh a penalty.

Appellant cites cases decided by the Board of Immigration Appeals in which aliens petitioning for suspension of deportation have been guilty of falsi-

fying their citizenship under various circumstances when applying for employment, registering for selective service, and in registering to vote. He quotes one decision of the B.I.A. to the effect that good moral character is not necessarily destroyed by a *single lapse,* and contends, therefore, that since his many false claims were necessitated by the first one, they should all be regarded as only one (Appellant's Brief pp. 10, 11, 12). On this point, the observation of this court in the above-cited *Harrison* case seems to be a complete answer to this contention and expresses the views of the naturalization courts in general on the point:

> "It may well be that in the exercise of a sound discretion in passing upon a petition for naturalization, a court could, with propriety, disregard evidence of some minor offense not indicative of moral depravity where the record failed to disclose the commission of serious offenses. But we are not here called upon to consider such a case. The record before us establishes as a matter of law that appellee is not a person of good moral character."

As to the degree of moral character to be established as a prerequisite to naturalization, it is true that the courts have not demanded the highest degree of moral excellence. The broad and reasonable test generally applied is that a good moral character is one that measures up as good among the people of the community in which the applicant lives. *In re Spenser* (C.C. Ore. 1878) Fed. Case No. 13234. *In re Hopp* (D.C. Wisc. 1910) 179 F. 561. In the *Spenser* case

the court held that one who committed perjury had so far behaved as a man of bad moral character as to disqualify him for citizenship.

In the case of *In re Bonner* (D.C. Mont. 1922) 279 F. 789, it was held that the inquiry or proof in naturalization proceedings was not as to the good reputation of the applicant, but as to his good behavior as an index of actual moral character, so that specific acts of bad behavior were material and competent.

In *Repouille v. United States* (C.C.A. N.Y. 1947) 165 F. (2d) 152, it was held that an alien seeking citizenship had "good moral character" if his conduct conformed to the generally accepted moral conventions current at the time.

In *Petition of Zele* (C.C.A. N.Y. 1944) 140 F. (2d) 773, the court held that the test of moral fitness of an alien applicant for naturalization was whether the petitioner had behaved as a person of good moral character during the five years immediately preceding his petition.

An alien need not have been convicted of a felony to justify denial of his application for citizenship on the ground that he is not of "good moral character". *In re Paoli* (D.C. Cal. 1943) 49 F. Supp. 128.

Where an act involving moral turpitude is committed within the statutory period of residence required of aliens seeking naturalization, the fact that no judgment of conviction had been based thereon would not militate against a finding that proof of good moral character during the time had not been fur-

nished. *In re Bookschnis* (D.C. Ore. 1945) 61 F. Supp. 751.

Where an alien had represented himself as a citizen to officials at a United States Navy Base depot and had made false statements to a naturalization examiner, his petition for naturalization was denied for failure to establish good character. *In Petition of Ledo* (D.C. R.I. 1946) 67 F. Supp. 567.

MORAL CHARACTER A QUESTION OF FACT.

What conduct on the part of a petitioner for naturalization does or does not constitute good moral character is a question of fact within the sound judgment of the trial court.

U. S. v. Bischof, C.C.A. N.Y. 1931, 48 F. (2d) 538;

U. S. v. Beda, C.C.A. N.Y. 1941, 118 F. (2d) 458;

Petitions of Rudder, et al., 159 F. (2d) 659, 697.

The question is to be determined from the facts of each particular case.

Daddona v. U. S., 170 F. (2d) 964, 966:

"Good moral character for the prescribed period is a question of fact."

WHAT IS THE "PRESCRIBED PERIOD" DURING WHICH GOOD MORAL CHARACTER SHALL BE ESTABLISHED?

Appellant points out that his misconduct terminated in August of 1948, after which time he no longer claimed birth in San Francisco and United States citizenship. Section 307(a) of the Nationality Act of 1940 (Section 707(a) U.S.C.A.) specifies that no person "except as hereinafter provided in this Act" shall be naturalized unless he has established (1) five years of continuous United States residence preceding his petition, (2) and between its filing and its final hearing, and (3) good moral character and attachment to the principles of the Constitution of the United States "during all the periods referred to". The bulk of naturalization petitions are filed under this general provision. (See Appendix.) This statutory period in general is judicially construed as an interval which the statute has set up as a probationary period, and consideration is ordinarily limited, therefore, to the petitioner's conduct during that time. This view regards the alien's antecedent conduct as having a bearing on his qualifications only as it may affect the validity of his claim to good character during the prescribed period.

Petition of Zele, 127 F. (2d) 578 (C.C.A. 2, 1942);

U. S. v. Clifford, 89 F. (2d) 184 (C.C.A. 2, 1937);

Petition of Sperduti, 81 F. Supp. 833 (D.C. Pa.).

Representative of the view that the naturalization court should not necessarily limit its consideration of the petitioner's conduct to the period of required residence are the following:

In re Bogunovic (Cal. 1941) 114 P. (2d) 581, prior opinion 106 P. (2d) 247.

In the case of *In re Taran* (D.C. Minn. 1943) 52 F. Supp. 535, it was held that the Government may inquire into the applicant's entire life history to ascertain his true character and inclinations.

In *Petition of Gabin* (D.C. Cal. 1945) 60 F. Supp. 750, the court held that it was not restricted in its inquiry concerning the fitness of applicants for naturalization to the 5-year period fixed by Section 307(a), which is merely the minimum requirement petitioners for citizenship must meet.

In the case of *In re Lipsitz Naturalization* (D.C. Md. 1948) 79 F. Supp. 954, it was held that the fact that 5 years and 9 months had elapsed since the applicant's release from prison after convictions of crimes involving moral turpitude, and the alien had apparently been a law-abiding person during that period, did not entitle the applicant to naturalization.

In the case of *In re Balestrieri* (D.C. Cal. 1945) 59 F. Supp. 181, it was held that although Section 307(a) imposes on the applicant the burden of proving five years of good character, it does not limit, in point of time, the power of the court to examine his qualifications for citizenship.

In the case of *In re Laws* (D.C. Cal. 1944) 59 F. Supp. 179, the court held that an alien who was re-

quired to prove only one year's continuous residence in the United States preceding his petition for naturalization because of his marriage to an American citizen, was nevertheless required to prove good behavior for five years prior to such petition.

From these decided cases it will be observed that naturalization courts do not feel necessarily constrained to limit their inquiry concerning a naturalization applicant's moral character to the period of residence to be established, even where such period is specifically set out in the statute.

Directing attention now to the appellant's specific question as to the period during which the trial court in this case was justified in considering the appellant's conduct, it will be seen that although subsection (b) (2) of Section 324(A) provides that no period of residence need be established, nevertheless paragraph (4) thereof requires that the petition shall be supported by the affidavits of two citizens attesting their knowledge of the petitioner's good moral character.

The Immigration and Naturalization Service has adopted the view that since the statute does not specify the period of good character to be established under this Section, a period of time considered as reasonable should be the applicable rule.

There appear to be no reported cases on this exact point, but the same District Court which denied the appellant's petition, in the unreported case of *Hing Tong Wai,* Petition No. 89798, filed under Section 324(A), also denied that petition for failure to establish good moral character where the petition was filed

on October 12, 1948, and the applicant had entered the United States as a deserting seaman in 1919 or 1920, and had falsely claimed United States citizenship when he made a trip to China in 1933, when he entered the United States Army in 1942, and when he testified before an examiner of the Immigration and Naturalization Service on June 15, 1948. In denying his petition for naturalization on December 8, 1948, the District Court ruled that it was not limited to any prescribed period of time in determining whether the petitioner had established good character.

The same court in the unreported case of *Do Quay Lew,* Petition No. 90299, also filed under Section 324(A) on December 14, 1948, wherein the petitioner on June 6, 1947, falsely claimed United States citizenship before an Immigration Board of Special Inquiry, granted the petition, holding that the petitioner's Army service out-weighed in general his false testimony on the issue of his moral character. In that case the point concerning the period of time required to show good character under that section was not decided.

In an unreported case the Superior Court of the State of California, in and for the City and County of San Francisco, on February 20, 1950, denied Petition No. 28613 of *Ming Fong Lee* because of his false testimony before an Immigration Board of Special Inquiry in which he had set up his false claim to United States citizenship and had also caused his wife and child to falsify in order to gain entry to the United States in April of 1948.

The Petition of *Wong Sie Lim,* decided in 1947 (71 F. Supp. 84) was filed in the U. S. District Court in San Francisco under Section 701 of the Nationality Act of 1940 (8 U.S.C.A. 1001) under a preceding statute granting citizenship to active and honorably discharged members of the armed forces of the United States under conditions very similar to those now embodied in Section 324(A). No period of residence was required to be proved under Section 701. Although the issue in the *Lim* case was not on the point of character, the decision indicates the courts' interpretation of the statutes on the question of its proper construction, holding that the law was *not* to be liberally construed in favor of the alien on the ground that it was remedial legislation. In the *Lim* case the court thoroughly reviewed the legislative history relating to the naturalization of members of the armed forces and those honorably discharged and cited several decisions of the United States Supreme Court as authority for the general ruling that:

> "It is still an historic precept of our scheme of naturalization that 'statutes prescribing qualifications and governing procedure for admission are to be construed with definite purpose to favor and support the government. And in order to safeguard against admission of those who are unworthy, *or who for any reason fail to measure up to required* standards, the law puts the burden upon every applicant to show by satisfactory evidence that he has the specified qualifications.' "

In another unreported case filed in the same court under Section 701—that of *Alexander Andrew Bari-*

atinsky, No. 826M,—the applicant had falsely claimed citizenship on several occasions from 1933 to 1944 and was convicted in 1946 for falsely claiming citizenship and placed on probation for two years. He had previously been denied naturalization by the U. S. District Court at Baltimore, Md., on April 27, 1945. He was granted citizenship on April 28, 1949, upon the recommendation of the Immigration and Naturalization Service which pointed out that the section of law under which his petition was filed did not specify the period during which the petitioner was required to establish good character, and that a reasonable period would therefore appear to be the proper rule to apply in such cases. In this case the applicant's violations of law occurred prior to his honorable discharge.

In the case of *United States v. Samuel Harrison,* No. 12,354, referred to above, this Court did not feel required to confine itself to any specific period of time in determining whether the applicant's conduct disclosed his good moral character. The petition was filed in December of 1946 and it is evident that the court was viewing the petitioner's record as far back as 1937 when he deserted his family.

CONCLUSION.

Appellee submits that the view of the Immigration and Naturalization Service that a petitioner under Section 324(A) of the Nationality Act of 1940 should be required to show good conduct for a "reasonable period" of time prior to his application for naturali-

zation is, in itself, a reasonable rule of construction applicable to this section, and that the courts in general are properly adopting and applying it; that the appellant's conduct preceding his petition does not meet the test of such rule; and that the District Court in so holding remained well within the area of its proper and legal discretion and therefore did not err, as appellant contends, in denying his petition for his failure to establish good moral character as required by Section 324(A) of the Nationality Act of 1940.

Accordingly, the appellee believes that the order of the District Court of the United States, dated December 13, 1949, denying the petition of the appellant for citizenship was proper and should therefore be affirmed.

Dated, San Francisco, California,
June 23, 1950.

Respectfully submitted,

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(Appendix Follows.)

Appendix.

Appendix

ACT OF JUNE 1, 1948

(PUBLIC LAW 567, 80TH CONGRESS; CHAPTER 360, 2D SESSION) TO AMEND THE NATIONALITY ACT OF 1940.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Nationality Act of 1940, as amended (54 Stat. 1137; 8 U.S.C. 907), be amended by adding a new section to be known as section 324A, as follows:

"Sec. 324A. (a) Any person not a citizen who has served honorably in an active-duty status in the military or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States or an outlying possession (including the Panama Canal Zone, but excluding the Philippine Islands), or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however,* That no person who is or has been separated from

such service on account of alienage, or who was a conscientious objector who performed no military or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purpose of this section.

"(b) A person filing a petition under subsection (a) of this section shall comply in all respects with the requirements of this chapter except that—

"(1) he may be naturalized regardless of age, and notwithstanding the provisions of sections 303 and 326 of this Act;

"(2) no declaration of intention, no certificate of arrival, and no period of residence within the United States or any State shall he required;

"(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner;

"(4) there shall be included in the petition the affidavits of at least two credible witnesses, citizens of the United States, stating that each such witness personally knows the petitioner to be a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States;

"(5) when serving in the military or naval forces of the United States, the service of the petitioner shall be proved either (1) by affidavits forming part of the petition, of at least two citizens of the United States, members of the military or naval forces of a noncommissioned or warrant

officer grade, or higher (who may be the same witness described in clause (4) of this subsection), or (2) by a duly authenticated certification from the executive department under which the petitioner is serving. Such affidavits or certifications shall state whether the petitioner has served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946;

"(6) if no longer serving in the military or naval forces of the United States, the service of the petitioner shall be proved by a duly authenticated certification from the executive department under which the petitioner served, which shall state whether the petitioner served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, and was separated from such service under honorable conditions; and

"(7) notwithstanding section 334 (c) of this Act, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the required witnesses shall have appeared before and been examined by a representative of the Service.

"(c) Citizenship granted pursuant to this section may be revoked in accordance with section 338 of this Act if at any time subsequent to naturalization the person is separated from the military or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person

was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation."

PENAL PROVISIONS

NATURALIZATION AND CITIZENSHIP OFFENSES DESIGNATED AS FELONIES.

Sec. 346. (a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—(54 Stat. 1163; 8 U.S.C. 746.)

(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship. (54 Stat. 1163; 8 U.S.C. 746.)

(18) Knowingly to falsely represent himself to be a citizen of the United States without having been naturalized or admitted to citizenship, or without otherwise being a citizen of the United States. (54 Stat. 1165; 8 U.S.C. 746.)

SECTION 307(a) NATIONALITY ACT OF 1940.
(54 STAT. 1142, 8 U.S.C. 707.)

Sec. 307. (a) No person, except as hereinafter provided in this Act, shall be naturalized unless such petitioner, (1) immediately preceding the date of filing petition for naturalization has resided continuously within the United States for at least five years and within the State in which the petitioner resided at the time of filing the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States. (54 Stat. 1142; 8 U.S.C. 707.)